

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

SENARBLE CAMPBELL,

Plaintiff,

v.

ASHLEY SMITH, et al.,

Defendants.

No. 2:21-cv-01172-KJM-CKD P

ORDER

Plaintiff is a state prisoner proceeding pro se and in forma pauperis with this civil rights action filed pursuant to 42 U.S.C. § 1983. A review of the docket indicates that defendant Smith has not been served. On two prior occasions, the court has provided plaintiff with explicit instructions on how to change the name of defendant Smith in this action in order to ensure proper service of process. See ECF Nos. 22, 30.

On February 16, 2022, plaintiff filed a motion for leave to amend his complaint to change the name of defendant Smith to Rainelle Smith.¹ ECF No. 32. However, plaintiff's motion was not accompanied by a proposed amended complaint. As a litigant proceeding in forma pauperis, plaintiff's pleadings are subject to evaluation by this court pursuant to the in forma pauperis statute. See 28 U.S.C. § 1915. Because plaintiff did not submit a proposed amended complaint,

¹ The filing date was calculated using the prison mailbox rule. Houston v. Lack, 487 U.S. 266 (1988).

the court is unable to evaluate it. The court will not draft plaintiff's amended complaint for him. Should plaintiff wish to change the name of defendant Smith, then he must file AN AMENDED COMPLAINT that includes the correct name of this defendant along with any additional identifying information including job post or title.² For all these reasons, plaintiff's motion for leave to amend is denied without prejudice.

Accordingly, IT IS HEREBY ORDERED that:

1. Plaintiff's motion for leave to amend (ECF No. 32) is denied without prejudice to refile it with a proposed amended complaint within 30 days from the date of this order.
2. Plaintiff is once again advised that the findings and recommendations filed January 4, 2022 (ECF No. 26) remain pending. If plaintiff files a motion to amend along with an amended complaint within the time provided, the court will vacate the Findings and Recommendations. However, if plaintiff fails to do so, the court will forward plaintiff's objections to the Findings and Recommendations to the district judge assigned to this case.

Dated: March 3, 2022


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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² The docket also reflects that the court returned a copy of plaintiff's complaint to him on December 1, 2021. See ECF No. 22. Plaintiff may utilize this copy of the complaint to make the necessary changes to amend his complaint.